

## REMARKS

In the April 1, 2008 Office Action, the USPTO rejected and objected to pending claims 1, 2, 4-6, 8, 9, 12, 14, 16, 19, 21, 22, 26, 28, 29, and 31 as follows:

- (1) claim 2 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite;
- (2) claim 21 has objected to as being informal;
- (3) claims 1, 4, 5, 9, 14, 16, and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,577,563 to *Sidler* (“*Sidler*”);
- (4) claims 14, 22, 28, 29, 31, and 21 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,260,085 to *Jefferson* (“*Jefferson*”);
- (5) claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,741,132 to *Blowers* (“*Blowers*”);
- (6) claims 1, 2, 4-6, 8, 9, 16, 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jefferson* in view of *Blowers*;
- (7) claims 4-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Blowers*;
- (8) claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jefferson* in view of U.S. Patent No. 6,467,779 to *Mills* (“*Mills*”); and
- (9) claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jefferson* in view of *Blower*, and further in view of *Mills*.

The USPTO has indicated that claims 13, 27, and 30 are allowable if rewritten in independent form.

### **A. Rejection of Claim 2 Under 35 U.S.C. § 112, Second Paragraph**

Applicant disagrees with the Examiners rejection of claim 2 under 35 U.S.C. § 112; however, to advance prosecution of the present application, Applicant has amended claim 2 to further clarify the claim. Claim 2 now recites a cargo container side wall with a first portion and a second portion, where the second portion has an exterior dimension greater than the first portion exterior dimension. This allows the cargo container to be nested in the platform while the second portion of the cargo container side wall is coplanar with the side wall of the platform.

Exemplary embodiments of such an arrangement are shown in Figure 1, 2, and 4 of the present application. Therefore, Applicant respectfully submits that amended claim 2 overcomes the 35 U.S.C. § 112, Second Paragraph rejection and requests that the Examiner withdraw the rejection.

**B. Objection to Claim 21 As Being Informal**

Applicant has amended claim 21 to correct the informality. Applicant respectfully requests that the Examiner withdraw the objection to claim 21.

**C. Amendment to Independent Claim 1**

Independent claim 1 is amended to include the limitations of the shoulder member “projecting from an exterior surface of said platform side wall” and the catch member attached to “an exterior surface of said side wall of said cargo container.” This amendment distinguishes independent claim 1 over the prior art of record; therefore, claim 1 and its dependent claims 2, 4, 5, 6, 8, 9, 12, and 13 are patentable and in form for allowance.

1. Rejection of Claims 1, 4, 5, and 9 as Anticipated by *Sidler*

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). Applicant respectfully submits that each and every element of amended claim 1 is not found in *Sidler*.

With regard to *Sidler*, the Examiner cites reference number 43 as disclosing the shoulder member and reference number 37 as disclosing the catch member. (Office Action at 3.) As can be clearly seen in Figure 1 of *Sidler*, the shoulder member 43 is not projecting from an exterior surface of the platform side wall. In addition, the catch member 37 of *Sidler* is not attached to an exterior surface of the side wall of the cargo container. Therefore, Applicant respectfully submits that amended claim 1 is not anticipated by *Sidler* and thus, is patentable over *Sidler*. Claims 4, 5,

and 9 all depend either directly or indirectly from claim 1; therefore, claims 4, 5, and 9 are not anticipated by *Sidler* and are patentable over *Sidler*.

2. Rejection of Claims 1 and 2 as Anticipated by *Blower*

Applicant respectfully submits that each and every element of amended claim 1 is not found in *Blower*. With regard to *Blower*, the Examiner cites reference number 31 as disclosing the shoulder member and reference number 39 as disclosing the catch member. (Office Action at 5.) As can be clearly seen in Figures 2 and 7 of *Blower*, the shoulder member 31 is not projecting from an exterior surface of the platform side wall. In addition, as seen in Figure 7 of *Blower*, the catch member 39 is not attached to an exterior surface of the side wall of the cargo container. Therefore, Applicant respectfully submits that amended claim 1 is not anticipated by *Blower* and thus, is patentable over *Blowers*. Claim 2 depends from claim 1 and, thus, is not anticipated by *Blower* and is patentable over *Blowers*.

3. Rejection of Claims 1, 2, 4-6, 8 and 9 as Unpatentable Over the Combination of *Jefferson* and *Blower*

The Examiner admits that *Jefferson* does not disclose a shoulder member or a catch member. (Office Action at 6.) As discussed above, *Blowers* does not disclose a shoulder member or catch member as recited in amended claim 1. Therefore, the combination of *Jefferson* and *Blowers* cannot render claim 1 obvious, and Applicant respectfully submits that amended claim 1 is patentable over *Jefferson* in view of *Blowers*. Claims 2, 4-6, 8, and 9 all depend either directly or indirectly from claim 1 and, therefore, are also patentable over *Jefferson* in view of *Blowers*.

4. Rejection of Claims 4-6 as Unpatentable in light of *Blower*

As discussed above, *Blowers* does not anticipate amended claim 1. In addition, nothing in *Blowers* would render claim 1 obvious. Claims 4-6 depend from claim 1 and inherit all the

limitations of claim 1; therefore, *Blowers* does not render claims 4-6 obvious. Applicant respectfully submits that claims 4-6 are patentable over *Blowers*.

5. Rejection of Claim 12 as Unpatentable Over the Combination of *Jefferson*, *Blowers*, and *Mills*

As discussed above, the combination of *Jefferson* and *Blowers* does not render amended claim 1 obvious. Claim 12 depends from claim 1 and inherits all its limitations. The Examiner cites *Mills* only as disclosing a wheel. (Office Action at 9.) Therefore, *Mills* does not cure the deficiencies of *Jefferson* and *Blowers*. Applicant respectfully submits that claim 12 is patentable over the combination of *Jefferson*, *Blowers*, and *Mills*.

**D. Amendment to Independent Claim 14**

Independent claim 14 is amended to include the limitation of a platform comprising “at least one slot at least partially in said platform side wall.” This amendment distinguishes independent claim 14 over the prior art of record; therefore, claim 14 and its dependent claims 16, 19, 21, 22, 26, 27, and 31 are patentable and in form for allowance.

1. Rejection of Claims 14, 16, and 19 as Anticipated by *Sidler*

Applicant respectfully submits that each and every element of claim 14 is not found in *Sidler*. With regard to *Sidler*, the Examiner cites reference number 7 as disclosing a side wall and reference number 37 as disclosing a projection. (Office Action at 3.) Claim 14 of the present application recites “a container side wall extending upwardly from a periphery of said bottom” and a “projection extending outwardly from said container bottom periphery.” Figure 1 of *Sidler* discloses the latch 37 as located on the inside of a door 7, which the Examiner has identified as the side wall. Claim 14 recites the projection extending from the bottom periphery and not the side wall. Therefore, Applicant respectfully submits that claim 14 is not anticipated by *Sidler*.

and, thus, is patentable over *Sidler*. Claims 16 and 19 depend from claim 14; therefore, claims 16 and 19 are not anticipated by *Sidler* and are patentable over *Sidler*.

2. Rejection of Claims 14, 21, 22, and 31 as Anticipated by *Jefferson*

Applicant respectfully submits that each and every element of amended claim 14 is not found in *Jefferson*. With regard to *Jefferson*, the Examiner presumably cites reference numbers 36 and 38 as disclosing a slot. (Office Action at 4.) However, the slot of *Jefferson* is presumably in the bottom of a platform and therefore, does not disclose the slot as recited in amended claim 14 – “at least one slot at least partially in said platform side wall.” Therefore, Applicant respectfully submits that claim 14 is not anticipated by *Jefferson* and is patentable over *Jefferson*. Claims 21, 22, and 31 depend from claim 14; therefore, claims 21, 22, and 31 are not anticipated by *Jefferson* and are patentable over *Jefferson*.

3. Rejection of Claims 16 and 19 as Unpatentable Over the Combination of *Jefferson* and *Blower*

As shown above, *Jefferson* does not anticipate claim 14. In addition, the Examiner cites *Blowers* as disclosing a latch with a catch member, which does not cure the deficiencies of *Jefferson*. Claims 16 and 19 depend from claim 14 and inherit all its limitation. Therefore, Applicant respectfully submits that amended claim 14 is patentable over *Jefferson* in view of *Blowers*, and therefore, claims 16 and 19 are also patentable over *Jefferson* in view of *Blowers*.

4. Rejection of Claim 26 as Unpatentable Over the Combination of *Jefferson* and *Mills*

As discussed above, *Jefferson* does not anticipate claim 14. The Examiner relies on *Jefferson* as disclosing the structure of claim 26 and cites *Mills* only as disclosing a wheel. (Office Action at 9.) Because *Jefferson* does not disclose the structure of amended claim 14, whose limitations are inherited by claim 26, *Mills* does not cure the deficiencies of *Jefferson*.

Applicant respectfully submits that claim 26 is patentable over the combination of *Jefferson* and *Mills*.

**E. Amendment to Independent Claim 28**

Independent claim 28 is amended to include the limitations of “at least one drainage aperture located in said platform side wall” and “at least one drainage aperture located in said cargo container side wall aligned.” This amendment distinguishes independent claim 28 over the prior art of record; therefore, claim 28 and its dependent claims 29 and 30 are patentable and in form for allowance.


With regard to *Jefferson*, Figure 3 and 4 disclose drainage apertures in the bottom surface of the container and platform. Therefore, *Jefferson* does not anticipate amended claim 28, and claim 28 and its dependent claim 29 are patentable over *Jefferson*.

**F. Conclusion**

In light of the above amendments and remarks, Applicant submits that claims 1, 2, 4-6, 8, 9, 12-14, 16, 19, 21, 22, and 26-31 of the present application are now in condition for allowance and respectfully requests allowance of these pending claims. Should the Examiner have any questions pertaining to the above, undersigned Counsel would welcome a phone call to provide any further clarification.

Respectfully submitted,

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Risto Pribisich, Reg. No. 55,859  
McDonald Hopkins LLC  
600 Superior Avenue, E., Suite 2100  
Cleveland, OH 44114-2653  
(216) 348-5427